



## Legislative Bulletin.....March 8, 2006

### Contents:

**H.R. 4167**—Amendments to the National Uniformity for Food Act

---

H.R. 4167, the National Uniformity for Food Act (sponsored by Rep. Rogers, MI), is scheduled to be considered on the House floor on Wednesday, March 8<sup>th</sup>, subject to a second, structured rule (H.Res. 710). Below are the summaries of the six amendments made in order under the rule. Note: summaries are based on RSC staff's review of actual amendment text. For a summary of the underlying bill, see a separate RSC document released last week.

---

**1. Barton (R-TX) Manager's Amendment.** Inserts a new provision permitting a state to enforce a state law that contains a requirement that is identical to a requirement that the Secretary of HHS has promulgated by regulation or adopted in final guidance relating to that requirement and the state applies the state requirement in a matter that conforms to the regulation. In short, the amendment clarifies when states may act to implement food adulteration standards in absence of a federal adulteration standard for a particular food. Under the amendment, if the FDA has established a federal adulteration or food tolerance standard the state must enforce that standard. If the FDA has considered and officially rejected a federal standard, then states may not enforce requirements rejected by the Secretary. However, if the Secretary has not acted to establish a standard or rejected a standard then a state could establish its own adulteration or tolerance standard without having to petition or seek approval from the FDA.

The amendment also removes the following section from the bill:

403B Section (f)

No Effect on Identical Law- Nothing in this section relating to a food shall be construed to prevent a State or political subdivision of a State from establishing, enforcing, or continuing in effect a requirement that is identical to a requirement of this Act, whether or not the Secretary has promulgated a regulation or issued a policy statement relating to the requirement.

Finally, the amendment adds dietary supplements to following the list:

The legislation clarifies that nothing in the Act is to be construed to prevent a state or political subdivision of a state from establishing, enforcing, or continuing in effect a requirement relating to the following:

- “freshness dating, open date labeling, grade labeling, a State inspection stamp, religious dietary labeling, organic or natural designation, returnable bottle labeling, unit pricing, or a statement of geographic origin, **or dietary supplements**; or
- “a consumer advisory relating to food sanitation that is imposed on a food establishment, or that is recommended by the Secretary, and other certain situations.”

**2. Cardoza (D-CA).** Inserts a new provision requiring the Secretary of HHS to expedite consideration of state petitions that seek adoption of national warning requirements or exemptions from uniformity for state warning requirements in three cases: (1) where the requested warning relates to cancer-causing agents; (2) where the requested warning related to reproductive effects or birth defects; and (3) where the requested warning is intended to provide information that will allow parents or guardians to understand, monitor, or limit a child’s exposure to cancer-causing agents or reproductive or developmental toxins.

**3. Rogers (R-MI).** Inserts a new provision providing that changes of law made by the legislation are not to take effect until after the Secretary of HHS certifies to the Congress, after consultation with the Secretary of Homeland Security, that the implementation of the legislation will pose no additional risk to the public health or safety from terrorist attacks relating to the food supply.

**4. Waxman (D-CA).** Inserts a new provision providing that changes of law made by the legislation, are to have no effect upon a state law, regulation, action or proposition, if a governor or state legislature certifies that the law, regulation, action, or proposition is useful in establishing or maintaining a food supply that is adequately protected from bioterrorism attack.

**5. Capps/Eshool/Stupak/ Waxman #4 (D-CA/D-CA/D-MI/D-CA).** Provides that states can maintain or enact food warning laws (which are inconsistent with FFDCa regulations) if the notification warns that the food involved may cause cancer, may cause birth defects, or pertains to reproductive health issues, and allergic reactions associated with sulfiting agents in bulk foods.

In addition, the amendment adds the following new provision to the bill:

Nothing in this Act or the amendments made by this Act shall have any effect upon a State law, regulation, proposition or other action that—

- (1) establishes a notification requirement that will allow parents or guardians to understand, monitor, or limit a child’s exposure to cancer-causing agents, reproductive or developmental toxins, or food-borne pathogens; or
- (2) offers protection to children from foods bearing or containing cancer-causing agents, reproductive or developmental toxins, or food-borne pathogens.

**6. Wasserman-Schultz (D-FL).** Adds a new provision providing that changes of law made by the legislation are to have no effect on a state law, regulation, proposition or other action that establishes a notification requirement regarding the presence or potential effects of mercury in fish and shellfish.

**RSC Staff Contact:** Joelle Cannon [joelle.cannon@mail.house.gov](mailto:joelle.cannon@mail.house.gov) 202-226-9717